

Cause No. 20-CV-1192

SRK HOLDINGS, INC.
Plaintiff

VS.

**AMERICAN COMMERCIAL BARGE
LINES and TUG NOVA H. LOUIS, in
reim
*Defendant***

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**IN THE DISTRICT COURT OF**

**GALVESTON COUNTY, TEXAS**

## Galveston County - 10th District Court

**JUDICIAL DISTRICT**

**PLAINTIFF'S ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT**

COMES NOW, SRK HOLDING, INC. and files this their Original Petition against AMERICAN COMMERCIAL BARGE LINES, and TUG NOVA H. LOUIS, in rem, and would respectfully show as follows:

## JURISDICTION

1. This Court has jurisdiction under General Maritime Law. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Plaintiff has damages of Forty Thousand and No/100 Dollars (\$40,000.00).

## **PARTIES and SERVICE of CITATION**

2. Plaintiff, SRK HOLDING, INC. is a Texas Corporation, with offices at 16615 Big Creek Falls Court, Houston, Texas 77379

3. Defendant, AMERICAN COMMERCIAL BARGE LINES, a business organization doing business in Texas, with offices at 1701 E. Market Street, Jeffersonville, Indiana 47130, and is the owner and operator of the TUG NOVA H. LOUIS. This Defendant to be served through the Texas Secretary of State, acting as Agent for Service. Please issue citation to The Secretary of the State of Texas, James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701

## FACTS

4. On or about September 7, 2018, Plaintiff was owner of the land and improvements

Status Conference set 12-03-20

located at Seivers Cut and the Intercoastal Canal in Port Bolivar, Texas. Plaintiff had erected a bulkhead consisting of large granite blocks on the northern edge of their property adjoining the Intercoastal Canal

On September 7, 2018 at approximately 10:46 P.M., Defendant's TUG NOVA H. LOUIS, owned and operated by Defendant, AMERICAN COMMERCIAL BARGE LINES was east bound in the Intercoastal Canal with a tow of at least two barges. On the occasion in question, Defendant owed Plaintiff a legal duty under the General Maritime law to observe the standards of good and prudent seamanship and exercise reasonable care when navigating the Intercoastal Canal to avoid the risk of collision. The TUG NOVA H. LOUIS and her owners and crew also had a statutory duty to follow navigational rules of the road. Defendant breached these duties by failing to maintain a proper lookout, failed to navigate the Intercoastal Canal at a safe speed, failed to use all available means to avoid the risk of collision and other acts of negligence which will be shown more particularly at trial.

These acts and omissions on the part of the Defendant, its Agents, Servants and Employees caused a collision by the TUG NOVA H. LOUIS and her tow with Plaintiff's bulkheads, both the granite bulkhead and the wooden bulkhead behind the granite bulkhead, knocking thirty (30) feet of the granite blocks into the water of the Intercoastal Canal and damaging the wooden bulkhead behind the granite blocks. Additionally, a presumption of fault arises for the liability of a vessel which collides with a stationary object.

The sole cause of the collision and damages caused was the negligent navigation of the TUG NOVA H. LOUIS.

#### **DAMAGES**

5. As a result of negligence on the part of the crew of the TUG NOVA H. LOUIS own and operated by the Defendant, AMERICAN COMMERCIAL BARGE LINES, Plaintiff sustained monetary damages of Forty Thousand and No/100 Dollars (\$40,000.00), representing the cost of recovery and replacement of the granite blocks knocked into the Intercoastal Canal and for damage to the wooden bulkhead located behind the granite blocks. Approximately thirty (30) feet of Plaintiff's bulkhead was damaged in the collision.

**PRAYER AND RELIEF**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Honorable Court enter judgement against Defendants for the amount of Plaintiff's claim including pre-judgement interest, post-judgement interest, Court cost and all other relief as justice and equity allow.

Respectfully submitted,

**MARTIN, GARZA & FISHER, L.L.P.**  
(A Partnership of Professional Limited Liability Companies)

**GEORGE D. MARTIN**

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Attorney for Plaintiff, SRK HOLDINGS, INC

STATE OF TEXAS §  
COUNTY OF GALVESTON §

**VERIFICATION**

1. I am a member of the law firm Martin, Garza and Fisher, L.L. P., Counsel for Plaintiff, SRK HOLDINGS, INC.

2. The facts alleged in the foregoing Plaintiff's Original Petition are true and correct based upon my information and belief. The basis of my information and belief is the information from Plaintiff, SRK HOLDINGS, INC. and from reviewing various documents and materials provided by Plaintiff.

3. The authorized Officers of Plaintiff, SRK HOLDINGS, INC. are not readily available in this district to make verification on Plaintiffs' behalf. I am authorized to make verification on Plaintiffs' behalf.

4. To the best of my knowledge, I verify that the facts alleged in the foregoing Plaintiff's Original Petition are true and correct.

  
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GEORGE D. MARTIN

STATE OF TEXAS §  
COUNTY OF GALVESTON §

SWORN TO AND SUBSCRIBED BEFORE ME on this the 3<sup>rd</sup> day of September, 2020  
by the said GEORGE D. MARTIN, in the capacity therein stated.

  
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Notary, State of Texas

